



JON M. HUNTSMAN, JR.
Governor

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Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

Request for an Mediation/Arbitration and Property Owner's Statement:

Street Address:

160 East 300 South, Second Floor
Salt Lake City, UT 84111

(801) 530-6391
1-877-882-4662 (toll-free statewide)
(801) 530-6338-Fax

Mailing Address:

PO Box 146702
Salt Lake City, UT 84114

Name of Property Owner Requesting Mediation and/or Arbitration

Mailing Address, City, State, Zip Code

Telephone - Day

Telephone - Evening

Best Time to Call

1. What type of property is involved in this dispute?

2. Where is the property located?

3. What government entity is involved in this dispute?

Name of City, County, Special District, State Agency or Other Government Entity

Street Address, City, State, Zip Code

4. What official at that government entity should be contacted about this matter?

Name

Title

Telephone

Best Time to Call, If Known

5. What action taken by the government has affected or will affect the value of the private property involved in this dispute? State briefly and concisely what the government entity did or intends to do that will take or damage the property. The dates of these actions are important to know, so please provide them as accurately as practical. Attach additional pages if necessary.

6. What compensation do you believe is due to you as a result of this action by the government entity, and why?

7. What efforts have been made to resolve the matter without involving the Ombudsman? Is there a viable hope of an informal settlement?

8. Has legal action been filed in this matter? ☐ Yes ☐ No.

If a court case has been started, attach a copy of the first page of one of the court documents that shows the names of the parties, the name of the court, the case number and the judge assigned.

I/we hereby request that the Office of the Property Rights Ombudsman provide mediation and/or arbitration of the matter(s) described in this request.

Signed:

Form completed this day: _____

Property Owner

Property Owner

If you need help completing this form, please call the Office of the Property Rights Ombudsman (“Office”) for assistance.

The owners shown on the form should be listed on the title as owners of the property. Only the private property owner can ask for arbitration of a private property dispute.

More information may be needed in order to determine if this matter is appropriate for arbitration. Once the form is submitted, the Office may call to ask more questions, and the answers provided will be made part of the request for arbitration.

The information provided here and other information requested by the Office will be given to the government entity involved for their response. **Please provide two copies of this form and all materials provided.** See instructions on page (4) for more information.

Instructions – Mediation/Arbitration Request and Property Owner's Statement:

Office of the Property Rights Ombudsman
Utah Department of Commerce

This form provides a brief outline of the issues involved in a private property dispute so that the Office of the Property Rights Ombudsman and the government entity involved in the dispute can respond to the property owner's concerns.

In most cases, the property owner should talk to the Office about his/her case before filling out this form. This will help the Office determine if arbitration could result in a finding that compensation is due, and how to most efficiently complete this request for arbitration.

Name, address and telephone: Provide this information about the property owner(s). **We need an accurate mailing address.** Only the owner has the standing to request arbitration. Please let us know the best time or method of getting hold of this person.

- 1. Type of property.** This can be land (with or without buildings or other improvements) or any other kind of property with value. The interest of a tenant in a lease agreement, a person's job, personal property like a car, crops, livestock or money can be protected by law from unconstitutional actions of government.
- 2. Location of property.** If land, the property must be within the state of Utah. Provide the address where the property is located, including street (if applicable). Larger tracts of land can be described generally -- we will request more specifics if necessary. The property needs to be identified sufficiently that the government entity can respond to the request for arbitration.
- 3. Government entity.** Identify the city, county, special district, state agency or other government entity specifically, and provide the mailing address of its principal office. The matter must involve a government action (or an action by a private company using eminent domain) in order to be arbitrated through the Office.
- 4. Official.** Provide the name of the person at the government entity who knows the most about the matter that is in dispute. If possible, let us know the best way to contact that person.
- 5. The action that was or will be taken.** In order for arbitration to proceed, the government entity involved must have taken a final action or otherwise permanently taken or damaged the property or stated its clear intention to do so. State the nature of the property right that has been interfered with. If we have questions about the matter, and whether arbitration or other involvement by the Office is appropriate, we will contact you.

Examples of actions by government entities that might be mediated or arbitrated:

- A. When private property is taken for government purposes through condemnation and compensation is offered. Issues for arbitration might include:
 - 1) whether the taking was for a legitimate public purpose,

2) whether there is a way to accomplish that purpose without taking the property and

3) whether the compensation offered for the property is just.

B. When possession of private property is taken but no compensation is offered. (The law may allow this in cases of criminal seizures, tax liens, payment of debts to the government and other such exceptions.)

C. When property owners and tenants who are displaced by a government action. Relocation costs, replacement residences, and other related damages may be considered compensable under the law.

D. Interference with fundamental property rights, such as 1) the right to sell property, 2) pass it on to one's heirs, 3) have reasonable access, 4) have air, light and view, 5) exclude other people from entering onto the property, 6) be free from nuisances such as noise, vibration, excessive light and odor and 7) otherwise enjoy peaceable and independent use of the property.

E. Excessive regulation of the property so that no viable uses remain for it.

F. Regulatory interference with reasonable expectations for return on investment in property.

G. Devaluation of property by continual or reoccurring intrusion onto property by flood waters or other repetitive and predictable physical entry onto the property.

H. Requiring excessive payments or conditions in order to obtain a permit or approval to conduct a legal use on the property.

I. Interfering with vested rights such as grandfathered uses or development approvals after they are final and vested.

J. Placing or causing something to be placed on the property permanently.

L. Other cases not listed above, but where a government action is permanent, intentional, and results in loss of property value. Not all such cases are compensable, but all compensable cases involve these elements.

These examples are provided as guidelines and each category can be complicated and depend on specific facts. The courts may have previously set up strict standards for allowing compensation in similar cases, so those precedents will have to be considered in determining whether the government entity involved in your case owes damages or other payment to you or not.

The Office will work with you to determine whether your situation is similar to other cases where relief has been granted, or whether the courts have determined in other matters like yours that no compensation is due. Call the Office if you have questions.

This question is provided so you can explain why you feel the action taken, intended or not taken has had an unfair impact on your property value.

6. Impact on value. If an action by the government has illegally affected your property rights, compensation must be due. That is one characteristic of this part of the law. If you have an estimate or other comments on how much may be due, please explain.

7. Efforts to settle. This information will be helpful to the Ombudsman so that he can tell if arbitration is the best way to proceed, or whether he may be able to help mediate or otherwise negotiate a settlement.

Signature. Please be sure to sign and date the form. We cannot proceed without your written request for arbitration.

Other comments:

If the facts as you state them are not similar to cases where compensation has been paid to a property owner, then we will contact you to clarify the matter. If it is clear that in cases like yours Utah courts have not required payment by the government entity involved, then we may not be able to proceed with mediation or arbitration. If this is the decision of the Office of the Property Rights Ombudsman, you will be entitled to an explanation of the Office's reasoning.

You are encouraged to have an attorney assist you prepare this form and otherwise consider your options in this matter. It is not necessary to have an attorney in order for the ombudsman to help you with mediation or arbitration, however

Mediation or arbitration is at the option of you as property owner. If you do not wish to continue at any time, you may withdraw your request. Once you sign this form, however, we will proceed until the Office determines that the matter has been finalized or that mediation or arbitration is otherwise inappropriate.

Mediation, where the result is based on a mutual settlement by both parties, is preferred to arbitration, where a third party neutral makes a decision for the parties. Mediation is less formal. If mediation is not appropriate and arbitration is to proceed, an outline of those more formal procedures will be provided to you.

If you have other questions, please call us at the numbers shown on the top of the form. Once the form is complete, mail or deliver it to the address which is also shown on the top of the form.